

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ORLANDO D. DAVIS,

Plaintiff,

v.

CIVIL ACTION NO. 5:17-cv-04009

SOUTHERN REGIONAL JAIL,

Defendant.

MEMORANDUM OPINION AND ORDER

On September 20, 2017, the Plaintiff, proceeding *pro se*, filed an *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and a letter-form Complaint (Document 2). By *Standing Order* (Document 3) entered on that date, the matter was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

By *Order* (Document 4) entered on September 21, 2017, the Magistrate Judge directed the Plaintiff to amend his Complaint, advising that failure to do so would result in a recommendation of the dismissal of the matter. Thereafter, on October 13, 2017, the Plaintiff filed a subsequent *Application to Proceed Without Prepayment of Fees and Costs* (Document 5) and *Complaint* (Document 6).

Subsequently, by *Order* (Document 9) entered on December 21, 2017, the Magistrate Judge again directed the Plaintiff to amend his Complaint, again advising that failure to do so

would result in a recommendation of the dismissal of the matter. There were no additional filings by the Plaintiff.

On June 7, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 10) wherein it is recommended that this Court deny the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Documents 1 & 5), dismiss the Plaintiff's Complaint (Documents 2 & 6) without prejudice, and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by June 24, 2019¹.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Documents 1 & 5) be **DENIED**, the Plaintiff's Complaint (Documents 2 & 6) be **DISMISSED without prejudice**, and this matter be **REMOVED** from the Court's docket.

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on June 27, 2019.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: July 3, 2019

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA